

No. 12,119

IN THE

United States Court of Appeals  
For the Ninth Circuit

---

UNITED STATES OF AMERICA,

*Appellant,*

vs.

JACK ANDRADE, Claimant of One 1947  
Cadillac Automobile, Motor No.  
8431298, Serial No. 8431298, its tools  
and appurtenances,

*Appellee.*

APPELLANT'S OPENING BRIEF.

---

FRANK J. HENNESSY,

United States Attorney,

JOSEPH KARESH,

Assistant United States Attorney,

ROBERT F. PECKHAM,

Assistant United States Attorney,

Post Office Building, San Francisco 1, California,

*Attorneys for Appellant.*

APR 8 - 1948



## Subject Index

---

	Page
Jurisdictional statement .....	1
Statement of facts.....	2
Findings of fact and conclusions of law.....	4
Order denying forfeiture.....	8
Statement of points on appeal.....	9
The issues .....	10
Contentions of appellant.....	10
Argument .....	11
I. The record contains no evidence to support the finding that Everett Brown, the registered owner of the 1947 Cadillac sedanette automobile, did not at any time expressly or impliedly authorize Kado Barrow to have possession of said 1947 Cadillac sedanette automobile, and that Kado Barrow was in illegal possession of said 1947 Cadillac sedanette automobile.....	11
II. The judgment in favor of the claimant can not be upheld upon the finding of fact that the claimant acted in good faith and complete innocence and sold the 1947 Cadillac sedanette automobile to Everett Brown in the usual course of business.....	15
Conclusion .....	16

## Table of Authorities Cited

<b>Cases</b>	<b>Pages</b>
General Motors Acceptance Corp. v. United States, 63 F. (2d) 209 .....	14
United States v. One Dodge Coupe, 43 F. Supp. 60.....	14
United States v. One Ford Coupe, 272 U.S. 321, 332, 47 S. Ct, 154 .....	16
United States v. One 1937 Hudson Terraplane Coupe, 21 F. Supp. 600 .....	14
United States v. One 1940 Packard Coupe, 36 F. Supp. 788..	14, 16
United States v. 1941 Plymouth Tudor Sedan, 153 F. (2d) 19	16
United States v. One 1946 Plymouth Sedan, 73 F. Supp. 88..	16
Various Items v. United States, 202 U.S. 577, 581, 51 S. Ct. 282 .....	16

## Statutes

21 U.S.C., Section 174 (Jones-Miller Act).....	2
26 U.S.C., Section 2553 (Harrison Narcotic Act).....	2
26 U.S.C., Section 2557 (Harrison Narcotic Act).....	2
19 U.S.C.A., Section 1615.....	13
28 U.S.C.A., Section 1291.....	2
49 U.S.C.A., Section 781.....	2
49 U.S.C.A., Section 782.....	2, 11, 15
49 U.S.C.A., Section 784.....	2, 13

No. 12,119

IN THE

**United States Court of Appeals  
For the Ninth Circuit**

---

UNITED STATES OF AMERICA,

*Appellant,*

VS.

JACK ANDRADE, Claimant of One 1947  
Cadillac Automobile, Motor No.  
8431298, Serial No. 8431298, its tools  
and appurtenances,

*Appellee.*

**APPELLANT'S OPENING BRIEF.**

---

**JURISDICTIONAL STATEMENT.**

This is an appeal from an order of the United States District Court for the Northern District of California, hereinafter called "the Court below", denying forfeiture to the United States of America, appellant herein, of One 1947 Cadillac sedanette automobile, Motor No. 8431298, Serial No. 8431298, its tools and appurtenances, and directing that the said automobile, its tools and appurtenances, be turned over to the intervener Jack Andrade, the appellee herein (Tr. 30, 31). Proceedings to forfeit said automobile, its tools and appurtenances, were brought on behalf of the

appellant herein under the provisions of Title 49 U.S.C.A., Sections 781, 782, 784 (see Appendix), and related statutes. Jurisdiction to review the order of the Court below is conferred upon this Honorable Court by Title 28 U.S.C.A., Section 1291.

---

### **STATEMENT OF FACTS.**

This is an appeal from an order of the Court below denying forfeiture to the United States of America, appellant herein, of one 1947 Cadillac sedanette automobile, Motor No. 8431298, Serial No. 8431298, its tools and appurtenances, and directing that the said automobile, its tools and appurtenances, be turned over to the intervener Jack Andrade, the appellee herein (Tr. 30, 31). The undisputed facts are that on four separate occasions one Kado Barrow illegally transported and sold narcotics in the said 1947 Cadillac Sedanette automobile. All sales were made to the informer in the said car, under the surveillance of agents of the Federal Bureau of Narcotics in San Francisco. These transactions were in violation of the Harrison Narcotic Act, Title 26 U.S.C., Sections 2553 and 2557, and the Jones-Miller Act, Title 21 U.S.C., Section 174. The aforementioned illegal activities occurred on February 22, 1948 (Tr. 65-66), February 24, 1948 (Tr. 67-68), February 26, 1948 (Tr. 70), and March 23, 1948 (Tr. 72).

On February 22, 1948 (Tr. 65-66), on February 24, 1948 (Tr. 67-68), on February 26, 1948 (Tr. 70), and on March 23, 1948 (Tr. 72), the said automobile was

parked in the immediate vicinity of 1430 O'Farrell Street, San Francisco, and on each of these occasions the said Kado Barrow was observed to leave 1430 O'Farrell Street and enter the said automobile and drive the said automobile to a prearranged place, where he met the informer and the illegal transactions hereinabove set out took place.

Arrangements for each of the illicit sales were made by the informer placing a telephone call from the office of the Bureau of Narcotics to Walnut 1-6659, which is the telephone listed to the name of Everett Brown, 1430 O'Farrell Street, San Francisco (Tr. 64, 67, 69, 72). On one of the occasions, to-wit, on February 26, 1948, one Ruby Slater was in the car with Kado Barrow (Tr. 69-71).

It is also undisputed that Everett Brown purchased the said automobile from the said appellee for the sum of \$5356.00 (Tr. 101, 102). It is also undisputed that the said Everett Brown was the registered owner of the said automobile, having purchased it from the appellee for the sum of \$5356.00 on or about the 24th day of October, 1947, making on that date a down payment in the sum of \$2307.00 (Tr. 108, 109). At the time of the arrest of Everett Brown on March 24, 1949, at 1430 O'Farrell Street, San Francisco, he was in possession of the keys to the said automobile. Ruby Slater was also arrested at the same time at the said address, 1430 O'Farrell Street, San Francisco, and at the time of her arrest was found in possession of a quantity of narcotics.



Subsequently Ruby Slater, Kado Barrow, and Everett Brown were convicted of violation of the Narcotic Statutes. Said Kado Barrow was sentenced to ten years imprisonment, and the said Ruby Slater was sentenced to imprisonment for one year and one day (Tr. 75-76), these sentences being imposed on the said Barrow and the said Slater for offenses occurring in the said automobile. The said Everett Brown was sentenced to fifteen years imprisonment for violation of the Narcotic Statutes, although these violations were not offenses occurring in the said automobile (Tr. 74). The convictions of Barrow, Slater and Brown took place at approximately the same time (Tr. 75).

---

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW.**

The following are the findings of fact and conclusions of law entered by the Court below:

“(Title of District Court and Cause.)

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW.**

The above-entitled cause having come on regularly for trial on the 13th day of August, 1948, and having been continued until the 27th day of August, 1948, before the above-entitled Court sitting without a jury, Joseph Karesh, Esq., and Robert Peckham, Esq., appearing for the libelant, United States of America, and Fred A. Watkins, Esq., appearing for intervener, Jack Andrade, and evidence, both oral and documentary having been introduced, and the cause submitted for deci-



sion, the Court now makes its findings of fact as follows:

## FINDINGS OF FACT.

### I.

That it is true that on or about the 24th day of March, 1948, in the City and County of San Francisco, State of California, duly authorized agents of the Bureau of Narcotics, Treasury Department of the United States, seized a certain automobile, to-wit, one 1947 Cadillac sedanette automobile, Motor No. 8431298, Serial No. 8431298, its tools and appurtenances; that it is true that at said time said Cadillac sedanette was in the illegal possession of one Cato Barrow; that the said automobile, its tools and appurtenances are presently in the custody of the District Supervisor of the Bureau of Narcotics, United States Treasury Department.

### II.

That on or about the 24th day of October, 1947, Jack Andrade was the owner of that certain 1947 Cadillac sedanette automobile, its tools and appurtenances, and that on said date Jack Andrade did sell said car, its tools and appurtenances under a conditional sales contract to one Everett Brown; that said contract of conditional sale was assigned on said date to the Pacific Finance Corporation of California; that said Everett Brown became in default under the terms of said conditional sales contract; that intervener Jack Andrade repurchased the 1947 Cadillac sedanette from the Pacific Finance Corporation, pursuant to a guaranty of payment agreement with said

Finance Corporation, on or about the 25th day of May, 1948; that Jack Andrade is the legal owner of said Cadillac sedanette automobile.

### III.

That on or about the 24th day of March, 1948, the Bureau of Narcotics agents, Treasury Department of the United States, seized that certain 1947 Cadillac sedanette automobile for an alleged violation of Title 49, Section 781, United States Code, by one Cato Barrow; that Jack Andrade is a stranger to Cato Barrow and to Everett Brown; that Jack Andrade has acted in good faith, and when Jack Andrade sold the said Cadillac sedanette automobile to Everett Brown on the 27th day of October, 1947, said Everett Brown presented sufficient credit references by way of cash paid to Jack Andrade and by way of information to Jack Andrade which indicated to Jack Andrade that said sale was one in the usual course of business of said Jack Andrade; that said Jack Andrade had no other relationship with Everett Brown than that necessary to consummate the sale of the Cadillac sedanette automobile on October 27, 1947.

### IV.

That Everett Brown was not in possession of, nor ever in possession of, or in or about the said 1947 Cadillac sedanette automobile at any time when the Federal agents, Bureau of Narcotics, Treasury Department of the United States, seized said car for a violation of Title 49, Section 781, United States Code; that said Everett Brown did not at any time expressly or impliedly authorize Cato Barrow to have possession of said 1947 Cadillac sedanette automobile; that said Cato Barrow

was in illegal possession of said 1947 Cadillac sedanette automobile on March 24, 1948, at the time the Federal agents, Bureau of Narcotics, Treasury Department of the United States, seized said car, nor at any other time.

## V.

That Jack Andrade has at all times acted in good faith and in complete innocence in the sale of said Cadillac sedanette automobile to Everett Brown, and did have no, and has never had any, knowledge of the use of the said 1947 Cadillac sedanette automobile for any violation of Title 49, Section 781, United States Code, nor were there any circumstances sufficient to arouse the suspicions of a reasonable and prudent person.

## CONCLUSIONS OF LAW.

As conclusions of law on the foregoing facts, the Court finds:

That Intervener Jack Andrade is entitled to possession of that 1947 Cadillac sedanette automobile, Motor No. 8431298, Serial No. 8431298, and that said Jack Andrade is entitled to be exonerated from his bond posted to secure any default or contumacy on his part.

Judgment is hereby ordered to be entered accordingly.

Dated: September 9, 1948.

Michael J. Roche,  
Judge of the District Court.

(Receipt of Service.)

(Endorsed): Filed Sept. 9, 1948."

(Tr. 22-25.)

**ORDER DENYING FORFEITURE.**

The following is the order of the Court below denying forfeiture:

“(Title of District Court and Cause.)

**ORDER DENYING FORFEITURE.**

The above-entitled cause coming on regularly to be heard on the 13th day of August, 1948, and the 27th day of August, 1948, before the above-entitled Court, and the Court having heard the evidence therein and having heretofore made its findings of fact and conclusions of law upon said findings and conclusions,

It Is Hereby Ordered, Adjudged and Decreed as follows:

**I.**

That intervenor Jack Andrade do have and recover from the United States of America that certain 1947 Cadillac sedanette automobile, Motor No. 8431298, Serial No. 8431298, its tools and appurtenances.

**II.**

That the District Supervisor of the Bureau of Narcotics, United States Treasury Department, be and he is hereby directed forthwith to turn said 1947 Cadillac sedanette automobile, Motor No. 8431298, Serial No. 8431298, its tools and appurtenances, to said Jack Andrade.

**III.**

That said Jack Andrade be and he is hereby exonerated of bond of Two Hundred Dollars (\$200) heretofore posted by said Jack Andrade

to secure any delay or contumacy on his part in the above-entitled action.

Dated: Sept. 9th, 1948.

Michael J. Roche,  
Judge of the District Court.

(Receipt of copy.)

Filed and Entered Sept. 9, 1948.

Entered in vol. 39 judg. and decrees at page 328.

(Endorsed):''

(Tr. 31-32.)

From this latter order appellant now appeals to this Honorable Court (Tr. 33).

---

#### **STATEMENT OF POINTS ON APPEAL.**

The following is the statement of points to be relied upon on appeal:

“1. That the District Court erred in making and entering the findings of fact, conclusions of law, and order for judgment in favor of intervenor and against the libelant United States of America, made and entered in the above cause.

2. That the District Court erred in failing and refusing to find that the libelant United States of America was entitled to the forfeiture of the above-described One 1947 Cadillac Sedanette Automobile.

3. That the District Court erred in rendering judgment against libelant United States of America, in that there is no evidence in the record



to support a finding by the Court that the respondent, One 1947 Cadillac Sedanette Automobile, Motor No. 8431298, Serial No. 8431298, its tools and appurtenances, was in the illegal possession of Kado Barrow.

4. That the District Court erred in rendering judgment against libelant United States of America, in that there is no evidence in the record to support a finding by the Court that Everett Brown did not at any time, expressly or impliedly, authorize Kado Barrow to have possession of said 1947 Cadillac Sedanette Automobile, and that Kado Barrow was in illegal possession of said 1947 Cadillac Sedanette Automobile on March 24, 1948, or at any other time."

---

### **THE ISSUES.**

1. Is there any evidence to sustain the finding of the Court that the said automobile was in the illegal possession of Kado Barrow?

2. Is the good faith and the innocence of the legal owner a defense in an action for forfeiture of an automobile used in the illegal sale and transportation of narcotics?

---

### **CONTENTIONS OF APPELLANT.**

The appellant in support of its contention that the judgment in favor of appellee should be reversed, contends and will argue:

1. The record contains no evidence to support the finding that Everett Brown, the registered owner of

the 1947 Cadillac sedanette automobile, did not at any time expressly or impliedly authorize Kado Barrow to have possession of said 1947 Cadillac sedanette automobile, and that Kado Barrow was in illegal possession of said 1947 Cadillac sedanette automobile.

2. The judgment in favor of the claimant can not be upheld upon the finding of fact that the claimant acted in good faith and complete innocence and sold the 1947 Cadillac sedanette automobile to Everett Brown in the usual course of business.

---

### ARGUMENT.

**I. THE RECORD CONTAINS NO EVIDENCE TO SUPPORT THE FINDING THAT EVERETT BROWN, THE REGISTERED OWNER OF THE 1947 CADILLAC SEDANETTE AUTOMOBILE, DID NOT AT ANY TIME EXPRESSLY OR IMPLIEDLY AUTHORIZE KADO BARROW TO HAVE POSSESSION OF SAID 1947 CADILLAC SEDANETTE AUTOMOBILE, AND THAT KADO BARROW WAS IN ILLEGAL POSSESSION OF SAID 1947 CADILLAC SEDANETTE AUTOMOBILE.**

Only one finding of the Court below could substantiate the conclusion of law that the claimant is entitled to recover the said 1947 Cadillac sedanette automobile. That finding is that Kado Barrow was in the illegal possession of the automobile on each of the four occasions that he sold narcotics in the said Cadillac automobile to the informer. Section 782 of Title 49 of the United States Code (see appendix) provides that no vehicle shall be forfeited by reason of any act or omission established by the owner thereof to have



been committed or omitted by any person other than such owner while such vehicle was unlawfully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States, or of any State. If the preponderance of evidence contained in the record showed that Kado Barrow was clearly in the illegal possession of the said Cadillac automobile and had obtained the possession thereof from Everett Brown in violation of the criminal law of the United States, or of the State of California, such findings as are contained in Paragraphs I and IV of the Findings of Fact and Conclusions of Law (Tr. 22-24) are proper.

A reading of the transcript, however, indicates that there is not a scintilla of evidence from which the Court below could make the finding that Kado Barrow was illegally in possession of the said Cadillac automobile on the four occasions that heroin was sold therein to the informer. On the contrary, the uncontroverted testimony of the Government witnesses is such that the only possible inference from the evidence is that Kado Barrow had the consent of Everett Brown to use the said Cadillac automobile to make the sales of the heroin. Everett Brown and Kado Barrow not only lived together at 1430 O'Farrell Street, San Francisco, California (Tr. 61), but each of the four times the informer telephoned Kado Barrow to arrange to buy narcotics Kado Barrow was telephoned at Walnut 1-6659, which was the telephone number of Everett Brown (Tr. 64, 67, 69 and 72).

On each of the four occasions Agent McGuire observed Kado Barrow leave 1430 O'Farrell Street, San Francisco, in the said Cadillac automobile and return to the same place after the sale was completed. On March 24, 1948, when the automobile was seized, Everett Brown had the keys of the said Cadillac automobile on his person (Tr. 74). It is also significant to note that Everett Brown was sentenced on May 21, 1948, to serve fifteen years in a United States Penitentiary for narcotic violations, and Kado Barrow was sentenced on May 3, 1948, to five years' imprisonment for the sale of narcotics that took place on February 22 and 26, 1948 (Tr. 74, 75, 76).

Neither did the claimant produce any evidence at the trial from which the Court could find that Kado Barrow was in the illegal possession of the said 1947 Cadillac automobile, nor did the claimant introduce any evidence to show that narcotics were never transported in the said Cadillac automobile. The testimony produced by the claimant only pertained to his good faith and complete innocence in the sale of the automobile to Everett Brown. Clearly the claimant did not satisfy the burden of proof which shifted to him upon the appellant's having shown probable cause for the institution of the action for the forfeiture of the Cadillac automobile.

Section 1615 of Title 19 U.S.C. (see appendix), as applied by Title 49 U.S.C. Section 784 (see appendix) to such suits as the one now before this Court, provides that the burden of proof shall lie upon the

claimant, provided that probable cause shall be first shown for the institution of such suit. The appellant, by the evidence set forth above, clearly established probable cause for the institution of these proceedings, and the burden of proof shifted to the claimant to show by a fair preponderance of the evidence that either narcotics were not sold in said Cadillac automobile and the vehicle was innocent, or that Kado Barrow was in illegal possession of the Cadillac automobile. *United States v. One 1937 Hudson Terraplane Coupe*, 21 F. Supp. 600; *United States v. One Dodge Coupe*, 43 F. Supp. 60; *General Motors Acceptance Corp. v. United States*, 63 F. (2d) 209.

All claimant succeeded in establishing on cross-examination was that Kado Barrow and not Everett Brown was driving, and was in possession of, the said Cadillac automobile on each of the four occasions when narcotics were sold. That alone is not a sufficient ground upon which to deny the forfeiture of the said Cadillac automobile.

In *United States v. One 1940 Packard*, 36 F. Supp. 788, the Court held that the automobile was subject to forfeiture as against claim of owner regardless whether the owner had guilty knowledge where the automobile was seized while being used by the husband of the registered owner. It must not be forgotten that a libel proceeding such as this case is a proceeding *in rem* against the automobile in which the law ascribes to the automobile a power of complicity and guilt in the offense.

To prevail, a claimant must show more than the mere fact that the registered owner was not driving the seized vehicle at the time of the transportation and sale of the contraband article. It is necessary for a claimant to establish by a fair preponderance of the evidence that the seized vehicle was stolen from the registered owner or that the latter was deprived of possession in violation of the laws of the United States, or of the State (49 U.S.C. 782). Nowhere in the record of this case can any evidence be found that Kado Barrow either stole or otherwise illegally deprived the registered owner Everett Brown of possession of the said Cadillac automobile in violation of the laws of the United States, or of the State of California. Therefore, the order denying forfeiture in this case is clearly erroneous in that no evidence was presented to justify the finding upon which the said order was made.

---

**II. THE JUDGMENT IN FAVOR OF THE CLAIMANT CAN NOT BE UPHELD UPON THE FINDING OF FACT THAT THE CLAIMANT ACTED IN GOOD FAITH AND COMPLETE INNOCENCE AND SOLD THE 1947 CADILLAC SEDANETTE AUTOMOBILE TO EVERETT BROWN IN THE USUAL COURSE OF BUSINESS.**

The appellee's evidence produced below was concerned only with his innocence and good faith. The good faith and complete innocence of appellee alone are no defense against the forfeiture. The cases are numerous for the proposition that an innocent lienor,



chattel mortgagee, or legal owner is not entitled to relief from a forfeiture of its interest by reason of its innocence. *United States v. One Ford Coupe*, 272 U.S. 321, 332, 47 S. Ct. 154; *Various Items v. United States*, 202 U.S. 577, 581, 51 S. Ct. 282; *United States v. One 1940 Packard Coupe*, 36 F. Supp. 788.

The only remedy of an innocent owner or lienor or mortgagee is through an act of grace on the part of the cabinet officer in whose jurisdiction the forfeiture lies. The District Court is without jurisdiction to release a seized automobile by way of mitigation or remission, or to remit the forfeiture to the extent of the innocent lienor's or owner's interest.

*United States v. 1941 Plymouth Tudor Sedan*,  
153 F. (2d) 19;

*United States v. One 1946 Plymouth Sedan*, 73  
F. Supp. 88.

A petition for remission or mitigation of the forfeiture filed with the Attorney General is the only remedy available to the lienor or owner whose only defense against the forfeiture is his innocence.

Therefore, the order denying the forfeiture in this case can not be upheld upon the finding that the appellee acted in good faith and complete innocence.

---

### CONCLUSION.

In view of the foregoing, it is respectfully urged that the order denying forfeiture be reversed and the case remanded to the Court below with directions that

it enter judgment granting appellant the relief for which it prayed.

Dated, San Francisco, California,  
April 4, 1949.

Respectfully submitted,

FRANK J. HENNESSY,  
United States Attorney,

JOSEPH KARESH,  
Assistant United States Attorney,

ROBERT F. PECKHAM,  
Assistant United States Attorney,  
*Attorneys for Appellant.*

(Appendix Follows.)









## Appendix

---

### Title 19, U.S.C.A., Section 1615:

#### “§ 1615. Burden of proof in forfeiture proceedings

In all suits or actions brought for the forfeiture of any vessel, vehicle, merchandise, or baggage seized under the provisions of any law relating to the collection of duties on imports or tonnage, where the property is claimed by any person, the burden of proof shall lie upon such claimant; and in all suits or actions brought for the recovery of the value of any vessel, vehicle, merchandise, or baggage, because of violation of any such law, the burden of proof shall be upon the defendant: *Provided*, That probable cause shall be first shown for the institution of such suit or action, to be judged of by the court, subject to the following rules of proof:

(1) The testimony or deposition of the officer of the customs who has boarded or required to come to a stop or seized a vessel or vehicle, or has arrested a person, shall be *prima facie* evidence of the place where the act in question occurred.

(2) Marks, labels, brands, or stamps, indicative of foreign origin, upon or accompanying merchandise (sic) or containers of merchandise shall be *prima facie* evidence of the foreign origin of such merchandise.

(3) The fact that a vessel of any description is found, or discovered to have been, in the vicinity of any hovering vessel and under any circumstances indi-

cating contact or communication therewith, whether by proceeding to or from such vessel, or by coming to in the vicinity of such vessel, or by delivering to or receiving from such vessel any merchandise, person, or communication, or by any other means effecting contact or communication therewith, shall be prima facie evidence that the vessel in question has visited such hovering vessel. (June 17, 1930, c. 497, Title IV, § 615, 46 Stat. 757; Aug. 5, 1935, c. 438, Title II, § 207, 49 Stat. 525.)”

Title 49, *U.S.C.A.*, Section 781:

“§ 781. Unlawful use of vessels, vehicles, and aircrafts; contraband article defined

(a) It shall be unlawful (1) to transport, carry, or convey any contraband article in, upon, or by means of any vessel, vehicle, or aircraft; (2) to conceal or possess any contraband article in or upon any vessel, vehicle, or aircraft, or upon the person of anyone in or upon any vessel, vehicle, or aircraft; or (3) to use any vessel, vehicle, or aircraft to facilitate the transportation, carriage, conveyance, concealment, receipt, possession, purchase, sale, barter, exchange, or giving away of any contraband article.

(b) As used in this section, the term ‘contraband article’ means—

(1) Any narcotic drug which has been or is possessed with intent to sell or offer for sale in violation of any laws or regulations of the United States dealing therewith, or which is sold or offered for sale in violation thereof, or which does not bear appropriate

tax-paid internal revenue stamps as required by law or regulations;

(2) Any firearm, with respect to which there has been committed any violation of any provision of the National Firearms Act, as now or hereafter amended, or any regulation issued pursuant thereto; or

(3) Any falsely made, forged, altered, or counterfeit coin or obligation or other security of the United States or of any foreign government; or any material or apparatus, or paraphernalia fitted or intended to be used, or which shall have been used, in the making of any such falsely made, forged, altered, or counterfeit coin or obligation or other security. Aug. 9, 1939, c. 618, § 1, 53 Stat. 1291.”

Title 49, *U.S.C.A.*, Section 782:

“§ 782. Seizure and forfeiture

Any vessel, vehicle, or aircraft which has been or is being used in violation of any provision of section 781, or in, upon, or by means of which any violation of section 781 has taken or is taking place, shall be seized and forfeited: *Provided*, That no vessel, vehicle, or aircraft used by any person as a common carrier in the transaction of business as such common carrier shall be forfeited under the provisions of this chapter unless it shall appear that (1) in the case of a railway car or engine, the owner, or (2) in the case of any other such vessel, vehicle, or aircraft, the owner or the master of such vessel or the owner or conductor, driver, pilot, or other person in charge of such vehicle or aircraft was at the time of the alleged illegal act a consenting party or privy thereto: *Provided*

*further*, That no vessel, vehicle, or aircraft shall be forfeited under the provisions of this chapter by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such vessel, vehicle, or aircraft was unlawfully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States, or of any State. Aug. 9, 1939, c. 618, § 2, 53 Stat. 1291."

Title 49, *U.S.C.A.*, Section 784:

"§ 784. Application of related laws

All provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of vessels and vehicles for violation of the customs laws; the disposition of such vessels and vehicles or the proceeds from the sale thereof; the remission or mitigation of such forfeitures; and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this chapter, insofar as applicable and not inconsistent with the provisions hereof: *Provided*, That such duties as are imposed upon the collector of customs or any other person with respect to the seizure and forfeiture of vessels and vehicles under the customs laws shall be performed with respect to seizures and forfeitures of vessels, vehicles and aircraft under this chapter by such officers, agents or other persons as may be authorized or designated for that purpose by the Secretary of the Treasury Aug. 9, 1939, c. 618, § 4, 53 Stat. 1292."